

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

5 KEITH CHARLES KNAPP, as Trustee of)
the California Home Loans Profit Sharing)
Plan; TRUST FOR THE)
CALIFORNIA HOME LOANS)
PROFIT SHARING PLAN, as a fiduciary)
of the California Home Loans Profit Sharing)
Plan; THERESE A. LAVOIE, as a)
participant in the California Home Loans)
Profit Sharing Plan,)
Plaintiffs,)
v.)
NOREEN CARDINALE, an individual,)
Defendant.)

16 NOREEN CARDINALE,)
17 Plaintiff,)
v.)
19 DANIEL R. MILLER JR.; PATRICE)
20 MILLER, his spouse; DANIEL R. MILLER)
SR.; PASHLIN INC., a California)
corporation; DERALD R. KENOYER;)
21 KEITH CHARLES KNAPP; HOME LOAN)
SERVICES CORPORATION dba)
22 CALIFORNIA)
HOME LOANS, a California Corporation;)
23 and DOES 1 through 100, inclusive)
Defendants.)

CASE NO. C 12-05076 RMW
STIPULATION AND []
ORDER TO CONTINUE PRETRIAL
CONFERENCE AND TRIAL
Hon. Ronald M. Whyte
RELATED CASE NO. C 12-05078 RM
(Remanded Pursuant to Order Dated
February 15, 2013)

1 Pursuant to Civil L.R. 6-2 and 7-12, Plaintiffs Keith Charles Knapp, as Trustee of the
 2 California Home Loans Profit Sharing Plan, the Trust for the California Home Loans Profit
 3 Sharing Plan, as a fiduciary of the California Home Loans Profit Sharing Plan, Therese A. Lavoie,
 4 as a participant in the California Home Loans Profit Sharing Plan, and Defendant Noreen Cardinale
 5 hereby stipulate and request that the pretrial conference currently set for February 27, 2014, and the
 6 trial currently set for March 17, 2014, in the instant action be continued until March 27, 2014, and
 7 April 21, 2014, respectively, or to such dates as the Court may determine appropriate following the
 8 Case Management Conference set for February 21, 2014.

9 This action involves claims brought pursuant to the Employee Retirement Income
 10 Security Act of 1974, as amended (“ERISA”), which is comprehensive federal regulation
 11 governing private employee benefit plans. (*See* Declaration of Joseph A. Garofolo ¶ 3 filed
 12 concurrently herewith). On January 24, 2014, the Superior Court of the State of California in and
 13 for the County of Contra Costa issued a ruling that provides that “even if a current valid ERISA
 14 plan exists now, it did not exist at the time of the levy at issue herein was served on First Republic
 15 Bank on 12/14/11.” (*See id.* at ¶ 4). The parties disagree as to the effect, or lack thereof, of the
 16 January 24, 2014 ruling of the state court. (*See id.*). However, the parties wish to obtain guidance
 17 from the Court prior to exchanging pretrial disclosures and making the additional filings set forth
 18 in the Court’s Standing Order. (*See id.* at ¶ 5). In addition, the parties understand that the Court
 19 has scheduled a case management conference for February 21, 2014, with a revised joint case
 20 management statement due by February 14, 2014, to discuss the ruling of the state court. (*See id.*).

21 This is the first request for a continuance of the pretrial conference or trial. (*See id.* at ¶
 22 6).

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1 IT IS SO STIPULATED AND AGREED.
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3 February 7, 2014

4 /s/ Michael L. Boli
5 Michael L. Boli
6 Attorney for Defendant/Judgment Creditor Noreen
7 Cardinale

8 February 7, 2014

9 /s/ Joseph A. Garofolo
10 Joseph A. Garofolo
11 Attorney for Plaintiffs Keith Charles Knapp, as Trustee of
12 the California Home Loans Profit Sharing Plan, the Trust
13 for the California Home Loans Profit Sharing Plan, as a
14 fiduciary of the California Home Loans Profit Sharing Plan,
15 and Therese A. Lavoie, as a participant in the California
16 Home Loans Profit Sharing Plan

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19 **ORDER**

20 Pursuant to the Stipulation, and good cause appearing, the Court orders the following:
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22 i) the pretrial conference currently set for February 27, 2014, is rescheduled for March 27, 2014, at
23 2:00 P.M.; and ii) trial currently set for March 17, 2014, is rescheduled for April 21, 2014, at 1:30
24 P.M.

25 IT IS SO ORDERED.

26 Dated: February FHE, 2014

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29 UNITED STATES DISTRICT JUDGE